

Interview with Frank D. Loy

The Association for Diplomatic Studies and Training Foreign Affairs Oral History Project

FRANK E. LOY

Interviewed by: Charles Stuart Kennedy

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[Note: This interview has not been edited by Mr. Loy]

Q: This is the 25th of July, 1996 and this is an interview with Frank E. Loy. My name is Charles Stuart Kennedy and we will be doing this on the behalf of the Association for Diplomatic Studies. To start at the beginning, could you tell me a little bit about when and where you were born and a bit about your family, the idea being that researchers will want to know [something about the background of those who worked in foreign affairs for the government].

LOY: I was born in Germany of German parents and grew up in Germany until about the age of six or so.

Q: You were born when?

LOY: Christmas day, 1928. Then I spent some time in Switzerland and Italy before arriving in the United States at the age of 10.

Q: 1939 then.

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LOY: February 1939. After spending a semester at school in Chicago, I ended up in Los Angeles, where my father had set up home.

Q: What was your father's profession?

LOY: My father was a dealer in steel alloys. However, my father was retired from the time that I was born. My mother died when I was about seven. My father died when I was about 11. That had a significance because I was reared in a very American household with relatively few German ties after the age of 11. My immigrant story, in that not insignificant sense, is different from that of others.

Q: Where in Los Angeles were you?

LOY: In West Los Angeles in the general neighborhood of UCLA [University of California, Los Angeles].

Q: I assume you went to American schools then?

LOY: I went to public schools in Los Angeles, grammar school, junior high school, high school, and then went on directly from high school to UCLA, where I graduated with a degree in political science and a minor in economics.

Q: I take it that foreign affairs had an interest for you at that time.

LOY: I think so. I'm not totally clear where all that came from, but probably the fact that it was wartime, and a very European war initially, that I recognized some of the issues and some of the participants. In any event, I think, foreign affairs had an interest for me right from that time on.

Q: You and I are the same class, 1928, so we just missed World War II, in a way, as far as draft went, although I suppose you were looking at the draft coming down the pike.

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LOY: I missed it. I don't remember whether I really felt the hot breath of the draft at that time.

Q: You graduated in 1950?

LOY: Yes.

Q: What did you do then?

LOY: I went immediately on to the Harvard Law School, where I spent the next three years and graduated in 1953.

Q: Was it any particular type of law, or was it pretty general?

LOY: No, I had no clear sense of any specialization, except that I really wanted to do business law, corporate law, and financial law. I did not want to do litigation. I'm not quite sure at exactly what stage I decided that, but it was certainly before I got out of law school.

Q: So, you graduated in 1953.

LOY: Right. At that stage, I then spent the next short period of time studying first for the District of Columbia Bar, and then for the California Bar. Immediately almost after taking the California Bar, I was drafted into the Army. I had applied for a commission in the Judge Advocate General's Corps, which actually came through, but it came through so late that I turned it down because it would have added between a year and a half and two years to my service time. So, in October 1953, I think, I went into the Army, went up to Fort Ord, California, [for basic training] and spent the next 21 months at Fort Ord. I never served any place else. I was discharged in something like July or August.

Q: What kind of work were you doing in the Army?

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LOY: After my basic training, I attended and for the rest of [my enlistment] taught at an Army school for clerks. I taught a number of subjects: personnel administration, military law, and I taught typing as well.

Q: So, you were out in '55. This was sort of at the height of the Cold War and all. Where you able to get back into the law?

LOY: Unlike today's generation, which sees itself correctly as having many choices, I was pretty career oriented at that time. I did not have much money. I had used up pretty much all that my father had left to see me through college and through the law school. So, I then examined the law firms in San Francisco and Los Angeles, and only those two places. I received a number of offers from both places and finally decided to join what was then the largest and I would say premiere Los Angeles law firm, called O'Melveny and Myers, LLP.

Q: How long were you with them?

LOY: I was there from 1955 until early or mid '61 when I first came to Washington, and then I went back there at the end of my Washington period in early or mid '64 and stayed until mid '65.

Q: During the time from '55 until '61, what type of law were you practicing on the job?

LOY: I was practicing what you would call corporate financial law. It was totally domestic in its orientation. My clients were investment banking firms and some large clients who did securities issues and the like, and quite a few small firms who were largely in the high technology area, who were generally formed by one or two scientists who accumulated some friends with money and then would try to organize a venture.

Q: What attracted you to Washington in 1961?

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LOY: I had a client, who had become a friend, and who was named by President Kennedy as the administrator of the Federal Aviation Agency [FAA], Najeeb E. Halaby [Administrator from March 3, 1961-July 1, 1965. At that time, the FAA was under the Department of Commerce]. I got to know him well and did some work for him. I think he thought highly of that. So, he asked me to come back to Washington and serve as his special assistant. He had just taken over an agency, which he knew a lot about and for which he was very qualified, but he did not really know very many people. He didn't have his own people there, so he was quite comfortable in having somebody that he would view as his person in close to him. I served there, from April of '61 or something like that, for two plus years, but during the last half of that, in addition to being his special assistant, I organized and ran a small Policy Planning Staff, focusing on economic analysis of our efforts.

Q: Obviously, our focus is more on the foreign affairs side, but Aviation has an international component. Could you talk first a bit about Najeeb Halaby, who was a very public figure, the only sort of household name that came out of that particular job, I think, in all that time. Could you talk a bit about his background and how he operated, and then something about the role of the Agency in foreign affairs?

LOY: Najeeb's father had been born in Syria, and his mother was Irish. I don't know where she was born, but she was of Irish descent. He himself had been born in Dallas, where his father, I think, actually ran a oriental rug and other objects boutique in Nieman Marcus. Najeeb had been in love with aviation from the time he was very young. He got a pilot's license very young. He had actually gone to law school and had actually worked at O'Melveny and Myers, the same firm I was with, for the year before the outbreak of World War II. But as soon as that war came about, he was desperate to get out and get into the military and he became a Navy test pilot. [He was the chief flight instructor for the second class trained at the U.S. Naval Test Pilot School in October 1945] He then stayed with aviation in various ways. He also did some work for some of the Rockefeller brothers in

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venture capital. He was on a presidential commission, I think, that examined the work of the FAA and what was right and what was wrong with it. As a result of that, he was very knowledgeable about that organization.

Therefore, he was a very logical choice for the Agency. He had two titles. He was administrator of the FAA and he was also the President's Special Representative for International Aviation. This was at a time when there was no Department of Transportation and there was no fully articulated National Security Council structure as there is now. If the President wanted international aviation advice, he could get some aspects of that maybe from the State Department, but he had nobody that he knew personally that could advise him on things like international air transport agreements and on mergers and root issues, many of which [often] came to the desk of the President because this was an industry [regulated by the federal government]. In the role of Special Assistant to the President for International Aviation, Najeeb had no staff. I became that staff really. [Editor's note: After working as FAA administrator, Halaby became the chief executive officer for Pan Am Airways. His autobiography is *Crosswinds: An Airman's Memories*. Halaby's daughter, Lisa Najeeb Halaby, married King Hussein of Jordan in June 1978 and became Queen Noor.]

There was one major report that he was asked by the President to do, which was called "Project Horizon," which actually sought to define the goals and the strategies for achieving those goals of the United States in the field of international air transport. We brought that out. It was an interagency effort with some public members.

Q: As you came into this, obviously, you were reading yourself into this. Concerning aviation law and regulation, how well equipped were the other agencies - the State Department on the international side, Department of Commerce, whoever was involved in this on the domestic front?

LOY: [Also Department of] Justice. I came in with zero experience and no particular qualifications, other than being kind of an ambitious young lawyer who had done a

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lot of little things. But I had no aviation experience. I was never particularly romantic about aviation, until I met Najeeb, who really felt it in his bones; that was not my case. I was remarkably clear in the first hour or two of sitting around that the [FAA's] job of both promoting aviation and seeking to regulate it in various ways (not the economic regulation, which was done then by the Civil Aeronautics Board, but other ways), that that combination was very difficult and that it was not being done very well, and that in the end, the promotional aspect would frequently outweigh the regulatory aspect. This was not so much necessarily because of any pressure from the industry, although there was a lot of pressure from the industry, but because of the romanticism of the people in the FAA, who loved flying, and who thought more flying was better, and approached issues that way. It was particularly evident when dealing with what we call "general aviation," that is, the non-commercial air transport companies. They were really the darlings of the Agency.

Internationally, there were issues of safety and there were issues of the structure of the agreements with other countries. We were living in an era in which every commercial right that the United States had or that the other countries obtained had to be negotiated. Back in the 1940s, even before the end of World War II, there was a major conference. It was called the Chicago Conference. It ended up in a convention in which the United States had sought kind of an open skies policy or freedom of the air, in which any carrier could fly any place it wanted to. This was an understandable position for the United States to take at a time when it had a large fraction of the world's air transport aircraft, and a large fraction of the capital needed to exploit the industry. The other countries basically did not go along with that. So, the only freedom of the air that was granted was for non-commercial rights and for over-flight rights. I mean, you could basically overfly in the commercial sense, without special agreement, and you could land for non-revenue purposes, but if you wanted to pick up passengers or freight, you had to have the consent of the other government. That regime is called the Bermuda Regime after the first bilateral agreement negotiated in Bermuda between the UK and the U.S. I might say that that issue is, in very different form, still with us. On that issue, there were beginnings of change. People were

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beginning to say, "This system isn't quite as sensible as it ought to be," but in fact we stayed with it for the entire time that I was involved there.

Q: Did the FAA get involved in landing rights? Around this time, in an interview I did with William Tyler, who was ambassador to the Netherlands, who talked about how the major issue as far as he was concerned with the Dutch at that time (it may be a little later, but it was close to this) was KLM [Royal Dutch Airlines] landing in Chicago, and some other countries. I mean, these landing rights became major issues.

LOY: Again, I want to stress that Najeeb had two jobs and I spent at least half and probably 2/3 of my time on the job of Advisor to the President on International Aviation matters. The FAA as such would have very little to do with landing rights or with the KLM request to operate into Chicago. But it landed on the President's desk again and again, either being brought up through the internal U.S. processes of having to make a decision on something or being brought up by the head of government of the Netherlands, who had three things on his plate. If he had three things on his plate, almost every goddamned time, one of them was aviation.

Q: How did the White House and President Kennedy both deal with this and how were you used in this type of thing?

LOY: He dealt with it in different ways. He sought advice from various quarters, not only Najeeb, but political advice, commercial advice, diplomatic advice, and so forth. But I think he viewed Najeeb as his filter to some extent on these issues because he didn't have anywhere else to go. In the case of Canada, which was one of the most neuralgic of our relationships, he got so fed up with [the controversies] that he appointed Kenneth Galbraith, a guy who knew about as much about aviation as I did (I mean, he came totally from a different field) to reconsider the agreement between us and Canada in sort of a fundamental way and make suggestions, which Galbraith did. He made some very radical suggestions which were thought to be generally adverse to the U.S. carriers' interest at

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the time. The President followed through on that and the aviation agreement between the U.S. and Canada was dramatically changed by reason of that. In other cases, the changes were more incremental.

Q: Did you find the State Department playing much of a role in this sort of thing, or were the Canadians?

LOY: Yes. In fact, I dealt a reasonable amount with the State Department in many of these areas. It is really through some of those contacts that I established at that time that I then ended up several years later returning to the State Department.

Q: Did you get involved at all with the Canadians or was this all with Galbraith?

LOY: I did not get involved with that decision whatsoever.

Q: During these negotiations, was Canada a problem? I mean, any time we get into negotiations, Canada and France seem to loom up, and then sometimes Japan, as some of the most difficult ones to deal with.

LOY: Canada had been a huge problem, but it was dealt with somewhat separately and quite interestingly. It had mostly been dealt with, at least for the moment before the period we're talking about. The Canadians were very unhappy with the U.S.-Canada agreement, the air transport agreement, and had been complaining about it for a decade or so. President Kennedy, when he was in office, asked John Kenneth Galbraith if he would, as a total outsider and as an economist [look into the issues].

Q: He was born in Canada.

LOY: I'm sure that must have played a role. He asked him to look at that and advise the President what he should do about this constant bitching and whining that came from Canada. The reason for the bitching and the whining was quite easy to see and had some

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merit. The Canadian population, which is of course a tenth of the American population, was all situated along a very small strip along the border.

Q: One hundred miles up from the American border takes care of 9/10 of the Canadian population.

LOY: Exactly. Whereas we had a whole [continent] down below. So, at the protectionist behest of American carriers basically, the [existing] agreement [required] that a person that wanted to go from Montreal to Fort Lauderdale would [just] go from Montreal to Buffalo. That could be carried by either an American or a Canadian airline. Then he would go from Buffalo to Fort Lauderdale, but the Canadians can't carry that [passenger] because that is [a domestic American route]. That's a totally internal flight. So, the Canadians were very big in these short transborder hops, but all the long hauls, where much of the profit lay, were reserved to American carriers because it was in U.S. air space. There was no reciprocal arrangement that made any sense because of the geography of the population. Well, that was at the root of the problem. Galbraith basically said, "This is a lousy way to run an air system" and that there ought to be service between the point in Canada and the point in the U.S. where people really want to go, not just Buffalo or Detroit; and that on those routes (let's say, Montreal-Fort Lauderdale, although I don't know if there is enough traffic there or not) carriers of both countries ought to be allowed to compete and that the network ought to be much different, ought to go much further down south. Kennedy bought that and that was implemented. It was by no means a kind of a freedom of the air situation. You still had designated points or pairs of points that had to be followed, but on those, both carriers could participate. That was a much longer list than you had had before.

So, we had constant issues with Canada, but the back of them had been broken with that new agreement.

I should mention one other issue which came up at that time and had very substantial international consequences, although there were also domestic ones. That had to do with

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a decision by the U.S. as to whether or not to build its own supersonic commercial air transport. That came up during that period.

Q: SST, wasn't it?

LOY: Right. Jeeb gave me the job of coordinating the FAA's and other government views on this. Jeeb, and my views actually in the end were very different. He was a big fan of the idea and I thought it was a terrible idea. I could see no combination of sales, tickets, schedules, anything that would make this anything other than a major economic drain, for the benefit of a few fat cats, as I would put it in my most argumentative fashion. He thought that when there was an opportunity for technical progress, you ought to grab it. The British-French Concord was really basically an aluminum aircraft which was the end of that era or aircraft; the American SST aircraft would have been a stainless steel aircraft and more exotic metallurgy. It would have been the beginning of a whole new generation. So, we had all those discussions. But the President got very much involved with that as well.

Q: This was a major thing. There was a certain amount of patriotism and all that involved.

LOY: Gerry Ford (and I don't remember the exact quote), who was then the Republican leader of the House, called it, in a wild hyperbole, something like "one of the blackest days in American history." It elicited a lot of emotion. [Editor's note: For more material on Loy's handling of SST issues at a later period, Foreign Relations of the United States, 1964-1968, Vol. XXXIV, Energy, Diplomacy and Global Issues, Documents number 111 through 129.]

Q: Because this was part of the time when Diefenbaker was the Prime Minister. He was rather anti-American. The Canadians are always difficult anyway for a variety of reasons from our perspective. How about any of the others, like the French? Did you get involved in any connections?

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LOY: You understand that during the phase we have not yet come to (that is, the period 1965-1970), I spent for five years (a very substantial fraction of my time) negotiating international air transport agreements with the French and with the Italians and with the British and with the Japanese, etc. So, during that time period, the answer is yes. During the FAA time period, the answer is very little. We did not conduct the negotiations. The State Department conducted the negotiations. We were responsible for processing White House approvals or disapprovals, when those were necessary, and then dealing with some things after the negotiations.

Q: Were there any other issues that touched on international affairs? We are still talking about the '61 to '64 period.

LOY: My memory is a little vague on this. We dealt with a number of ICAO (the International Civil Aviation Organization) issues. I'm having a hard time remember whether some of it happened in that '63/'64 or whether it happened '65/'66, to be quite honest. But we did have hijacking as an issue. We tried various ways to get international agreement on extradition of hijackers and other measures that we thought were prudent. Some of that took place in '63/'64.

Q: Did you get any impression in this first stage of the major American airlines (there weren't many in those days), how they viewed both the FAA and particularly international connections?

LOY: Yes, definitely. A pattern was emerging which came to be very evident later on. That is, that Pan Am was losing [its role as the exclusive American carrier overseas]. [It was arguing for a feeder line system where] it would be the international air carrier working in collaboration with some sort of other domestic U.S. carriers. That concept would not work; the United States government didn't want it to work. As a consequence, other airlines were being granted routes by the United States to serve routes authorized by bilaterally [negotiated international] agreements. Much of that business came out of the hide of

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Pan Am. At that time, Pan Am received some compensating advantages from these international negotiations, but only some. We were moving toward a regime where the role of the Northwest, American, TWA, and the Braniff air carriers were rising, and frequently at the expense of Pan Am. That was just the pattern that was clearly developing.

Q: From your vantage point, obviously, it was all political in a way, but at the same time, were you all feeling the heat of the political environment as far as what was granted and what wasn't granted and all this?

LOY: Yes. There was a lot of political heat. There was a lot of pressure from the carriers and a lot of pressure from the Dutch and the British and so forth and there was a lot of pressure from the State Department to take those [countries' views] into account. All of this was in a fairly highly visible, highly charged atmosphere because decisions that in other businesses would be commercial [in aviation] were governmental. [It was also high pressured because many airlines] (frequently wrongly, I think) viewed the issue as kind of a zero sum game. If this guy got it, it came out of this guy's hide.

Q: Maybe we ought to move on to this. You left in '64. You went back to your law firm?

LOY: No. I had told Jeeb that I would stay only two years. A little after that time, I told him that I wanted to go back to my law firm. But as I was planning to do so and as I had already gone to a number of good-bye parties, the then administrator of USAID [U.S. Agency for International Development], David Bell, whom I had gotten to know when he was director of the Office of Management and Budget, asked me if I would take on a six month assignment, as he called it (it turned out to be about a nine month assignment). He asked to examine the aviation assistance projects that USAID was financing in some six or eight countries. In his words, all of [these projects] seemed to be in deep trouble. There was more complaining about the success or lack of success of those than there is about almost any other USAID project. "I want to know what the hell is going on" was his viewpoint. I undertook that. I had just gotten married. After informing myself in the

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office, I then went to visit most of those [projects]. That included India, Iran, Nepal, Bolivia, Brazil, Peru - there were more, but those were the ones that I looked at. In fact, there were serious problems and they were reasonably evident after some examination. There were systems problems, if you will. I prepared a report for the administrator of USAID and soon thereafter left to go back to my law firm.

Q: When you say "systems problems," what do you mean?

LOY: One thing is that frequently the USAID [contractor] was a very large [American] airline, whose advice to an airline that had four airplanes was to basically copy its system. When that met resistance or when that seemed not to be appropriate, the [contractor] didn't quite adjust. Second, in some cases, they were simply cases of very bad personnel decisions - people that would probably operate very well in some regional carrier in Minnesota, but were culturally and psychologically not able to adjust to working in Bolivia. Third, the assistance frequently was being given to the mechanics in the aircraft maintenance operation and to somebody in the sales, but in the aggregate, while the people running the maintenance and overhaul might be getting better and the people running the sales department might learn from that, as an airline, they were frequently not the people that put [a commercial aviation company] together. I don't really remember the recommendations, except I remember there were a bunch of them that were relatively specific that seemed to apply to quite a few of the cases.

Q: So, we're talking about '65?

LOY: In '64, I went back to L.A. and stayed there really only a little more than a year. I was in fact in New York going to a special course at the Parker School of Columbia Law School. Parker School is the international law part of Columbia Law School. They gave a course for common law lawyers that were about to practice in civil law countries. I was on my way to Paris to be in the O'Melveny office in Paris. While there, I got a call from a man named Tony Soloman, who was the Assistant Secretary for what was then [the State

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Department's Bureau of] Economic Affairs (now called Economic and Business Affairs), whom I did not know, but who had heard about me from other people in the Department. He wanted to talk to me about a job. Somewhat contrary to my wife's urgings, I went down and talked to him. He offered me the job of Deputy Assistant Secretary for Economic Affairs. With that portfolio, I'd be getting aviation, shipping, international communications, and one or two other more modest issues. That seemed very attractive to me. After considerable agonizing and stomach churning, I accepted that offer.

Q: I always like to get at the beginning from when to when, this job.

LOY: I did that from 1965 to 1970 - about five years, including some time after the coming into office of President Nixon.

Q: Let's talk about the non-aviation part first. Shipping. American shipping had been and, I guess, continues on a decline. Was shipping much of your work?

LOY: It was the least of the three things that I mentioned, shipping, aviation, and telecommunications. There were several problems that occupied our attention. As you point out, we were a very weak maritime nation in terms of efficiency and effectiveness, and very protectionist actually. But in principal, we were free traders. Sort of marrying those two warring concepts was one of the tasks we had. For example, we opposed a regime of "bilateralism," as it was called, which many developing nations sought to achieve. Their vision frequently was that trade between country A and B should be handled 40% by country A, 40% by country B, and 20% if they want to and can, by carriers of third countries. We opposed that on kind of freedom of entry into the market and general liberal trade principal grounds.

On the other hand, we were, of course, fiercely protective of our rights under the Jones Act, which is an act that reserves to United States' lines coastal trade in the United States - i.e., from one U.S. port city to another. We were defenders of the conference system of rate setting. It was sought to minimize or even do away with price competition in what's

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called the "liner trade" - that is, the regular going back and forth, generally of dry goods and of things other than what's called "bulk goods." The liner trade and the bulk trade were handled very differently. But we were constantly fighting this issue of trying to be responsive to our industrial and related trade union interests and recognizing that what we were doing was frequently screwing the consumer in the process. So, that's one set of circumstances.

A second set of circumstances that occupied us that I remember quite vividly involved the Canadians. This was a specific and limited issue, but it was a politically important one. That is, the United States and Canada are parties to an agreement relating to the Saint Lawrence Seaway. That agreement requires that the tolls on the Seaway be so set that they would cover the cost of servicing the debt, including payments of both interest and principal, [both countries] incurred in building the seaway. The Canadians for a long time had been opposed to setting fares, tolls high enough to do that. When we suggested raising tolls, they objected. So, we commissioned a report from the Stanford Research Institute. We were having one of our periodic sessions of fairly lengthy and complex reports seeking to evaluate the elasticity of demand and what would happen to the demand and what would happen to the ability of shippers (grain shippers, coal shippers, other shippers) using this seaway in world markets if tolls went up. It seemed to us that it proved that one could raise tolls rather substantially.

Literally a day or two days before our departure [to negotiate with the Canadians], President Johnson, who was in office at that time, was visited by a group of Senators from the grain states. They convinced him that he should oppose any raising of the tolls, which is, of course, [the opposite of what] we had sought to do for a long time. Suddenly not only were we not to seek to raise the tolls, but we were not permitted to make clear or public why our position was what it was. Well, it was a fairly awkward position to be in and the Canadians figured it out. [They] had a wonderful time with me leading the American delegation, deciding to read the Stanford Research Institute report as saying that you

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couldn't raise tolls, whereas they, in a true or mock fashion, agreed that they would go along with raising tolls and they were ready to sign on the dotted line.

A third issue that occupied us some had to do with safety of life at sea. During this time, there were several major fires on cruise ships or passenger ships. There was great congressional concern about that and great outrage. Secretary Rusk asked me to brief him on that, which I did. Part of the situation was that we were all members of a convention called SOLAS, the Safety of Life at Sea convention, which required us to admit into our harbors for commercial purposes cruise ships and other passenger ships that met certain physical criteria. If they did meet those criteria, [we had no grounds to deny entry. Of course, the SOLAS] criteria were too lax and were wrong. In addition, SOLAS had a five year notification of termination. [If you wanted] to operate under the SOLAS and you wanted to get out of that obligation to accept those ships, you had to give them five years notice. Rusk said, "That's intolerable. We're putting passengers at risk here. We know better now as to what the right standards are. We've got to get a lot of the wood out of the ships. We're just going to have to forbid entry after some effort to get agreement on this. One way or the other, we're going to have to forbid entry to ships that we now think are not safe. I pointed out the obvious, which is, that you can say that and that was all okay, but we were then headed on a path of breeching our obligations under SOLAS because we were going to start turning back ships that actually met the technical convention, unless we were able to change it, which I thought was difficult. Certainly, if we were going to do it, it required [prior notification]. He was quite interesting. He was not willing to pay much of a price to preserve the sanctity of international agreements in this case, where he thought the agreements were potentially harming the passenger and also causing a lot of political grief. So, the way I interpreted it, [we took a stance that pressed for] the SOLAS agreement to upgrade the criteria and to make some of those things applicable right now to the extent you could and very soon, and that if you couldn't negotiate it, that the United States was prepared to denounce it being effective immediately, rather than waiting for this

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long period of time. We were able to renegotiate SOLAS under substantial pressure and complaint from others that we were throwing our weight around rather heavily.

Q: Did you find any support from some of the more affluent countries that were more concerned about their passengers than about the trade?

LOY: Yes, we had some support. I don't think I could reconstruct the lineup today, but we were not alone. But we also alienated some people who were probably with us on the substance because we took such an aggressive stance. But we got it done. We got the SOLAS agreement rewritten and did not have to denounce it and breach it.

Q: What about communications?

LOY: On communications, there were a lot of more modest issues, but the big one (and it was very big and it took up a very substantial fraction of my energies) was the negotiation of the definitive agreement for INTELSAT [International Telecommunications Satellite Organization]. INTELSAT, being a partnership or consortium of nations, all signatories to an agreement. That agreement provided for the ownership and operation of the space segment of an international communications network, a network that would provide competition to undersea cables, where those existed, and provide an alternative in the [long range communication] industry. There had been a temporary agreement signed some years earlier that was designed to try to put together a longer term, more definitive organization. That negotiation took (I'm not sure I can tell you exactly) something like three or four years. It was the existence and the unresolved character of that negotiation that caused me to stay after the end of the Johnson administration.

Q: Was there a significant change in attitude or outlook between the Nixon administration and the Johnson administration on the satellite communications side?

LOY: Well, there were differences, but I would not call them significant or fundamental or profound. On the other hand, there was considerable suspicion on the part of the

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Nixon administration as to just what the hell I was up to. I was the effective head of the negotiating group from day one. The [Johnson] administration put in as the chief of delegation a guy named Leonard Marks. When the administration changed, the new administration put in first- I'm not sure in which order this came, but there were two key people that they put in there. One of them was a man named Philip Buchan, who had been a law partner of Gerry Ford's and who was Ford's man there. The other person that was brought in was Bill Scranton, who became the head of the delegation. Buchan was simply [not] a very active participant. So, the head of the delegation went from Marks to Scranton. I would say, while there was considerable concern that nobody quite understood what these negotiations were about and whether the United States was getting a good deal and so forth, the fact is that there were probably not profound changes in the attitudes.

Q: Were you there when they were completed or did you stay on?

LOY: I stayed on until they were essentially completed, and then left, and then came back for the signing. That was at least three years, probably four years.

That negotiation took roughly four years. It took about three plenary sessions in between preparatory sessions. To start at the end, we ended up with an organization that was at bottom, a partnership of governments. Governments would sign an agreement. They would designate their entities, as they were called, that would be the organizations that actually were responsible for communications in that country. In most countries, that was the postal, telephone, and telegraph [PTT] bureaus. In some countries, it was not. Particularly in the United States, it was not. In the United States, the entity that was designated was the COMSAT Corporation, a federally chartered, but private, organization; a for profit organization headquartered here in Washington. It had as its mission exactly what we were talking about: the providing of services via satellite communications. The question then arose as to how this partnership of entities should be governed. There was set up, in essence, an executive committee, if you will, consisting of some of those partners, but it [had a] council of all of the entities that met once a year, and then

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this executive committee would meet almost constantly. Then there was a secretariat, which was an international group of international civil servants who did the day to day management. At the head of that secretariat was a general secretary. I'm not even sure I have that right. It was an international civil servant who was to run that. The mission for the United States was to try to develop an institution that first would work. International institutions exist all over the place, but most of them are regulatory or standard set in character. This was to be an international institution that actually provided day to day service. There was great fear in the United States that we would end up with a UN type body which would get so politicized and so politically correct (I don't think that was a term that we knew at the time).

Q: How did they come out?

LOY: I would say it was a total success. By the end of the negotiations, there were something like 85 nations who belonged to INTELSAT. I'll tell you about what INTELSAT became as we went on. My job was to negotiate an agreement that would do something - not just regulate something, but do something - that is, operate a telecommunications service that would provide voice, T.V., and data communications both between heavy users thereof (the U.S. and the UK, for example) and between developing countries who were very concerned that they not be left out of the benefits of that. The satellite that was used by the system was what is called the "geostationary" satellite, that is, it sat above the equator at 22,000 miles and could have a certain viewing circle. There was always concern that there were only a few slots up there that were just right and that people would be left out of the viewing circle and the like. That was one concern.

A second concern was who was going to run this thing? The United States is by far the largest user of the system and is by far the largest contributor to it as a result thereof, insisted really that the U.S. manage it, and specifically that it be managed by the COMSAT Corporation, unlike almost every other country. The structure of INTELSAT was... There was an agreement to establish a General Assembly, which met every three years or

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so to set policy, and then there was a... Every country had a designated entity that was an operator of the telecommunications system. In nine cases out of 10, it was the post office. In our case and in a few others, but in our case most importantly, it was a private company, COMSAT Corporation. So, then the organizations, the entities, as we called them, would vote and, with government interference and the like, would designate two dozen of themselves as members of the governing committee. So, there was a governing committee which made most of the decisions. Then, there was a secretariat, which was a kind of international secretariat, and in principle, not subject to the commands of any particular country. That had to be worked out with the power sharing and the relative strengths and weaknesses of every one of those things agreed to. One of the purposes was, on the one hand, to make sure that you had a system that actually could deliver the goods like a business could. On the other hand, there was a system that was politically sensitive enough so that it would take into account the needs and the special demands, political or otherwise, of various other countries.

Q: That it would be subject to the vagaries of UN votes and that type of thing.

LOY: That it wouldn't actually be able to work efficiently. That was one concern: we had to get one that worked. We had to get one that would provide for adequate U.S. influence. I mean, we were by far the biggest user and transmitter of communications. We also were by far the leader in the technology of this system. We were at that time the only one that really could launch geostationary satellites. So, we were quite critical. So, we wanted to make sure that we had the right amount of influence. Third, we wanted to make sure that the coverage was appropriate [especially for] the developing world, which really needed this more than we did, because they frequently did not have adequate undersea cables.

Q: When we're talking about the developing world, we're talking about what could be called the "Third World," or the poorer countries.

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LOY: Exactly, who were poorer and had poorer communication. We wanted to make sure that the system would work so that they would benefit. Last, we wanted to make sure that the procurement of the equipment needed, the satellites particularly, and other pieces of equipment, was not warped by politics and therefore would make the system either more expensive than necessary or less good than necessary. That was a very good and easy position for us to take because we had the best technology and we recognized that other countries were not going to be satisfied - the European countries particularly - with always buying U.S. equipment, but how to deal with that problem so that the organization wouldn't do something really dumb was a big part of our mission. We had virtually no model to go on. We didn't have earlier organizations.

Q: You couldn't look to the telegraph agency, postal agency, which were working agencies, in a way, more turn of the century? Those didn't qualify?

LOY: Well, most of the international relations of those were bilateral. Of course, they were terrestrial. They dealt with cables and microwave links. When you dealt with these things, they were different issues. I mean, we worried about a lot of things. I mentioned some of the things we worried about. The developing countries at that time worried much that the first satellites would hog all the best parking spaces in space (the ones that could see the optimum areas of the earth) and that, later one, when they had certain needs, the parking spaces wouldn't be there. That turned out to be, as time told us, a non-problem. But we didn't know that. The American industry was, of course, very much interested in this, both the providers of the equipment and the providers of the service. AT&T (This was before the breakup of AT&T.) had a rival technology in place - that is, undersea cables. We did not want to run undersea cables out of business because we did not want to rely exclusively on satellites. But it was also true that we thought the provision of satellite communications as an alternative would probably [increase competition and] help with the rates on the undersea cables. So, all of those things were issues. There was a lot at stake, both in terms of money, and also in terms of the quality of communications. This was just

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the beginning of big data transmissions across the ocean, which takes up quite a bit of space, and television transmissions. I mean, the voice you could handle with relatively modest capacity, but if you start transmitting a lot of television and a lot of data, you need capacity that really needed the technology such as the one we had.

The first chair of the American delegation was Leonard Marks, who was a communications lawyer in Washington and in fact LBJ's [President Lyndon Baines Johnson] lawyer on the LBJ personal communications holdings. He was there when needed, but it was very occasional. I mean, he was not there full-time. Then when, in the midst of this period, the administration changed, and President Nixon was elected, Marks left, being a political appointee. I was [also] a political appointee in the Department. That is, I was a "schedule C," as they call it. So, [during the transition between administrations], I advised the people that took over the Department, Secretary Rodgers and then, I think, called Under Secretary Richardson, that I was prepared to leave any time that they wanted my position. Elliot Richardson asked me to stay to see this, particularly the INTELSTAT process, to an end. But, he said that he was sure that the new administration would want to put in their own person in some form of leadership role, probably as head of the delegation, because they felt a responsibility to know what the hell was going on. And they did. They named Governor Scranton of Pennsylvania as the head of the delegation and a man named Abbott Washburn as (I'm not sure what his title was) the other person on the Republican side. He was there to learn what the hell was going on and to make sure that the administration was appropriately represented. Governor Scranton turned out to be an absolute sweetheart: intelligent, fair, had his own view, but was very respectful of others'. That relationship was very good. I stayed on as vice chair of the U.S. delegation and the person who handled affairs on a day to day basis and handled most of the interventions at both the preparatory conferences and at the plenary. Abbott Washburn was also a wonderful person to deal with and was very active. He succeeded Governor Scranton at some stage, although I'm not quite sure when. The thing was a big success. I think it would be viewed as a big success today. INTELSTAT exists. INTELSTAT operates. INTELSTAT has

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been basically successful at providing operational services with a minimum of diplomatic faldederal and is viewed as a kind of a half-baking way to provide international services as opposed to international regulation for an important activity.

There was a related issue which was quite divisive, and that had to do with the technology to build the satellites that were involved and the technology to launch them. Some Europeans particularly were very anxious that they not get left out of the technology race and that they have the right to build a part of the system. Obviously, once you start allocating those rights, you end up risking the efficiency of the operation because you allocate not by the quality of the proposer or the bidder but by the nationality. So, that had to be resolved. The governance of it, the coverage of it, making sure that the developing countries would have adequate coverage, and the commercial interests of the builders of these various satellites and the launchers of these satellites, those were all things that were major issues of dispute.

Q: What was your relation within the State Department with, say, the African bureau or the Asian bureau, or the Latin American bureau? I'm thinking in particularly of the countries which were sort of third world types. Did the various desks come in and pound on your table, "You've got to do something for Uganda?"

LOY: Yes. I don't think this was different than in other cases. I don't mean to suggest that in any way these regional bureaus were being improper or even unduly concerned. They were concerned and sometimes, I'm sure, they were unduly concerned. We had those discussions all the time. We had to get agreement on things in the Department first. Then we had to get agreement with the Federal Communications Commission [FCC], which had a member on the delegation. The Defense Department, I remember... The delegation consisted of all the U.S. governmental entities that were involved. In State, specifically, I had the lead on that.

Q: How did the Cold War intrude in this? It must have intruded.

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LOY: Well, this was a system basically for the non-Soviets here. The Soviets had their own satellite system, not a geostationary system, but an orbiting system. They were basically said they were uninterested in participating in ours. At some stage, we would have to figure out how to keep talking to each other. But having a system that would permit the Soviets and others to join was a big item for a number of the participants. [Some people worried] that we were deepening the division, although I don't think by any means the majority of people.

Q: This, of course, is at the height of the Cold War. I would have thought that with anything of this nature, the Pentagon would say, "Well, you know, this has intelligence implications. Doesn't the "Don't give it to the other side" factor intrude? Was this a problem or not?

LOY: No, it really wasn't. [Again], the Soviet Union was not going to be a player in INTELSTAT because it had its own satellite system, but it was viewed as not as economic as ours. Nobody was interested in joining it. I don't think the issue of security of the messages was much thought about. I think the military either was going to use its own system or would encrypt its messages.

Q: Moving to aviation, what were the major things you were dealing with in aviation?

LOY: The major thing I was dealing with were a whole series of negotiations with different countries to exchange rights under bilaterals or to negotiate new bilaterals. In the important cases, I conducted those negotiations personally. But in others, the people that worked for me conducted the negotiations and I supervised them. There was a constant stream of them. I mean, some of the very important ones were with Italy, were with the UK, were with Japan. But there were dozens. I think the notion of the other countries was that generally we were the most difficult negotiation they had, in part because we really did have some important element of trying to protect the passenger and shipper. We were not pure and the other guys were impure; it was much more mixed than that. But we did value

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[the consumer and user] somewhat higher than some others who basically viewed these as negotiations for the benefit of their flag carriers.

Q: Just to characterize, did you feel that the flag carriers of most countries were heavily subsidized, where the United States' ones were not?

LOY: I think two things were true. One of them was that quite a few of the carriers of other countries were heavily subsidized, ranging from, let's say, Sabane, the Belgian airline, where in each year's annual report, at the end of it, when they showed income of \$10 and outflow of \$12, they had an item that said, "Subsidy paid by the state under law x, y, z: \$2." It was very open and very clear. That was rare, but that was one case. [There were] cases where the subsidies were harder to find, but nevertheless important. Cases where the subsidies took the form of financing either the research and development of aircraft or the purchase of aircraft. Sometimes they were on very favorable terms, much more favorable than American carriers could get. At other times, they were simply forgiven. The debt was forgiven or written off or partially written off at some later time. There were many subsidies that would be treated as subsidies under the GATT agreements in any sense. I might say that one of the responses sometimes to foreign carriers was that our subsidy took a different form. That is, a government had paid Boeing to develop the military version of the 707 so that the development costs of the aircraft were really written off by the government and that permitted the purchase price of the aircraft to be much more reasonable, a proposition which was largely true, but it didn't in my opinion the least bit affect the proposition that subsidies played a huge role in their case and a very small one in ours. But there is a second favoring of foreign carriers by their governments which we did not match generally. That had to do with what you might call regulatory and diplomatic support. That is, just to [illustrate the point] on the diplomatic front; I would say that almost never did the President of the United States go over to country x or receive his counterpart from country x and raise an aviation issue. We had international security issues and other issues, but aviation did not get that kind of attention and that kind of priority that it got not only with the Dutch, but with the Brits and the Japanese and so forth. [Of course, the

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other countries were pushing their national airlines. The U.S., due to its larger market, did not have a single, national airline] We could not count on a level of diplomatic support that the other countries could. That was true whether the carrier was a private carrier of that country or a state owned carrier. In that sense, KLM, which was already then largely private, though not totally, had as much support as if it had been a totally national carrier.

Q: Did you ever stop and sort of analyze this? Was this a cultural thing or is it just that we had so many things...

LOY: Both things are true. We were a world power. We almost always had political issues. The charge that our airlines frequently made is that the United States would trade off a political desire that we had for a commercial desire that the other guy had and frequently that commercial desire was an aviation related desire. That was true sometimes. So, we did have a larger plate and a different set of priorities. But it's also true that we were in this period where we were trying to say that airlines are commercial operations and we ought to minimize the role of government in their operation. Lastly, and very importantly, I think, the difference between the countries was that we really had a sense of regulations for the benefit of the passengers as well, at least, as much as for the carrier. I think some countries, frankly, had very little of that.

Q: Let's stop at this point. The next time, we'll talk more about some of the individual countries which you were doing this with. This was the '65 to '70 period, with which you were dealing with particular problems of maybe some particular countries on aviation negotiations, and a little more about how you felt the aviation communications and shipping division fit into the Bureau of Economic Affairs.

LOY: Later on, with the Department of Transportation. It was formed during that period.

Q: And what were some of the reasons for doing that.

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Today is January 23, 1997. Moving to the other issues that you dealt with, were there any particular issues that were difficult to deal with during this '65 to '70 period?

LOY: Well, let's talk about aviation first. Aviation took up the bulk of my time during that period because this was during an era when essentially all services by international airlines were pursuant to bilateral agreements between the countries involved, all under the general pattern of what's called the "Bermuda agreements," which was the first of those bilateral agreements signed in 1946 between the United States and Great Britain. So, if you wanted to change the pattern of service between, let's say, the U.S. and Italy, you had to sign an agreement.

In these negotiations, as a broad generality (and like all generalities, it has significant exceptions), the United States sought to lessen the restrictions and increase the freedom of action of the carriers. It also tried to find ways to permit more than one carrier for each side of the bilateral (specifically, more than one carrier for the U.S.) to serve under that bilateral. Being a little more specific, what these Bermuda agreements regulated was, first of all, the routes that could be flown between two countries; secondly, the number of carriers and sometimes the specific identity of carriers that could fly them; and third, the capacity that could be offered (number of seats per week or something like that). Much of [what we negotiated focused on] the identity of the carriers, or the number of carriers, and the capacity. There were also complicated arguments on rates, what fares you could charge and what if there was a difference [among set] fares. There were times when that became very contentious, but those were more rare than contention on capacity.

Q: You're talking about in the '60-'70 period. This was as we were getting ready for what is now known as the jumbo jets, which was a quantum leap in capacity. I think it was just coming in, wasn't it?

LOY: Yes. I suspect that the first jumbo jet would have gone into service in '67 or '68 or something like that. I'm not sure.

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Q: I was in Athens in '70-'74. I remember seeing my first jumbo jet. This was a 747 around '71/'72.

LOY: Right. They were new then. The United States sought, as I said, to get more U.S. carriers in there and to reduce limitations on capacity. Again, you have to recognize that we were in a somewhat favored position in some ways and that is, we had many [airlines] (most countries had only one, or at least only one international carrier). [Economically, we] were the origin of more traffic generally than the other side. I think that had some influence on how people chose airlines so that, from that point of view, we were in pretty good shape. On the other hand, many of the foreign carriers were subsidized either directly—for example, in the case of the Belgians, if you at that time read the annual report of the Belgian carrier Sabina, at the very end of that annual report's financial section, it would show a loss and then it would say “Governant under section 4269 of the so and so law” and it would show an amount which made up that loss. Most other countries didn't do it quite so openly, but they had other forms of subsidizing [domestic] carriers. So, one problem was that the American [airlines] frequently felt that they were at a disadvantage vis a vis subsidized foreign carriers.

A second problem that American carriers felt was that the other countries tended to elevate their aviation issues to the presidential prime minister level much more than we would. So, in talks between the Dutch prime minister and the Secretary of State or between the Dutch prime minister and the President, they would bring up KLM's service rights and their gripes under the agreement.

Q: I've talked to men who have been assigned to The Hague as ambassador. They said that they were told their main issue was probably going to be KLM's landing rights in Chicago.

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LOY: We as a superpower always had NATO issues and security issues and international trade issues of a broader nature. So, the American aviation community felt that in these negotiations, we were not getting the same high profile.

The third thing that I think [dominated] the United States carriers' position was that we were very much against (This was the United States' government position, which was backed mostly by the U.S. carriers) what was called "pooling of interests" and similar arrangements which were totally anti-competitive. For example, on the route from London to Paris, basically, Air France and British Airways (or at that time, British European Airways) would (and this is crude, what I am describing, but this is essentially it) take all the revenues on that route and divide it in half. One would get half; the other would get half. They had very little incentive to compete against each other because they would not get the fruits of any [success]. So, there was a different attitude toward competition.

Last, we had a multiplicity of carriers that wanted to get into international service. We had decided as a country that the Pan Am model, which [PanAm pushed] but never was able to convince the U.S. government to implement, was that Pan Am would be the chosen instrument, and that they would only fly overseas, and that other American carriers would provide domestic feed, if you will, to Pan Am. Pan Am wouldn't intrude into their domestic field and they wouldn't intrude into Pan Am's international field. That's the way the pie would be split among American carriers. Well, the U.S. government didn't buy that. So, in these negotiations, Pan Am was frequently the carrier [or bilateral route "a"]. Sometimes TWA was the carrier. Sometimes both were. Along comes American and along comes United and along comes Braniff at that time and the other carriers who want to have those routes or participate in those routes. So, it is improper for the U.S. government to negotiate this agreement for one American carrier or two American carriers. You have to do it for all American carriers that want to participate. You have to get rights to make sure that we get a right to fly them. So, we had a lot of things to talk about in these negotiations.

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Of the big negotiations we had, one of the first was with Italy, which was very anti-competitive in its attitude. They would have loved to have a pooling arrangement between the PanAm and TWA. On the one hand, we already had two carriers there, and Al Italia. In the absence of that, they wanted capacity restrictions on Pan Am and TWA, taking the position that we were getting too big a share of the market. They would have loved to have a 50/50 market sharing arrangement or something that came close to that. The head negotiator had been an Italian general. I think we had prevailed upon the Italians to put in a veteran diplomat as the head of their delegation. I can remember going over (This was very shortly after I got married) with my new bride to Rome. I think it took us six weeks to negotiate that deal. On the U.S. delegation, there were people from the State Department, several people from the Civil Aeronautics Board, including a member of the board and some staff people. We were always trailed by representatives from the U.S. carriers. We had daily briefings for the carriers and tried to establish a relationship with the industry that worked. We ended up with an agreement that was acceptable.

Q: What cards did we have to play?

LOY: Well, we had a big market. We had an agreement that probably was closer to our interpretation than to theirs. We generally did not play any non-airline cards. We generally did not say, "You do this for us, we're going to do something for you in some other agreement."

Q: Somebody like Italy would sort of blink their eyes and say, "Poor little us and we're a good, loyal NATO ally" and that sort of thing?

LOY: They would do that some in the negotiation and when the negotiation was stalemated, they would try to take that up in Washington with the Department or with the U.S. embassy there, yes. I think that some of them felt that because of their position, they had the right to a greater share of the pie or at least some greater attention than we were

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willing to give them. Then we had very lengthy negotiations with the UK. The UK was geographically very central. We had difficult negotiations with Japan, still difficult today.

I might say that [there were] two additional complexities [in our aviation negotiations. The first was that] we had some very effective all cargo carriers. That's true today also, but at that time, "Flying Tiger" was one of them.

Second, we had at that time very robust charter [air] companies. Many of the people that owned those had become very rich and had made big friends on the Hill. So, the charter carriers had very big supporters. In addition to the discussion of the scheduled operations, we frequently had to talk about schedules, freight operations, and charter operations, both freight and passenger. In addition to these kinds of discussions, we had some oversight role [toward] the IATA, the International Air Transport Association, which consisted of carriers and which had a price fixing regime, basically blessed by the U.S. government, but with certain oversight requirements. They would set rates for fares between the U.S. and various other parts of the world, or between two other parts of the world. That, of course, was inherently totally anti-competitive but was permitted. We had constant discussions as to how to put limits around that.

In the course of the period (and again, I'm not clear about [the exact dates]), we began to have, aside from the economic issues I've been talking about, which were the predominant work of the organization, some hijackings. That involved what's called the ICAO, the International Civil Aviation Organization, an organization started, I believe, in 1944, one of the early post World War II regulatory organizations. The United States sought through ICAO to develop rules and procedures for dealing with hijacking. Particularly we worked very hard on the proposition that hijackers should be extraditable from the country where they landed to basically the country probably where they started or whose airplane they stole. The trouble with our position was that we were deeply ambivalent and conflicted about it because we could see, for example, a person from behind the Iron Curtain or from Cuba hijacking an airplane to get to the United States or to get to the

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West and not being a normal criminal or anything like that, but an asylum seeker, if you will, and we would be very hesitant to send that person back to his homeland and what we assumed would be death. So, we were a little reluctant to commit to sending people back, but we wanted other people to send them to us. Those were tough negotiations.

Q: How did you come up with a compromise or agreement?

LOY: Largely, the compromise was, as I recall, that people did have to be returned. There was an obligation on the part of the signatories to this agreement to honor a request for extradition, except when there was a concern that the person involved would not receive a fair trial. I'm not sure whether I've [summarized the actual agreement].

Q: During this time, were there any other major problems?

LOY: We're still talking about aviation?

Q: We're talking about aviation and then moving on to satellites. Let's finish aviation.

LOY: Well, we had a problem of an agreement to provide service to the Soviet Union. Service at that time, I think, when I started was provided not under an agreement, but under kind of a mutual permit system. I can remember trying to negotiate that agreement for a long time. I can't remember when it was signed. Problems for example were provisions on what happens if you have an accident. At that time, American embassy personnel couldn't travel more than 25 miles away from the embassy. So, how could they get to the scene and so forth? There were very complicated problems. I suppose there were others, but I don't have them in mind. The Bermuda type negotiations were the biggest part of the problem, the biggest part of the workload.

Q: Other than satellites and aviation, were there any other areas that you were dealing with?

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LOY: Well, shipping. Let me just talk about some of the shipping issues. They were, again, mostly economic, but there were some safety issues as well. Shipping runs a little differently from aviation, but has some similarities. Basically, you have what was called the “liner” trade. That included later on the container ship business. Then you have what's called “bulk” trade, which involves ships that are entirely filled with grain or with liquid like oil. You had significantly different rules. The latter was a more free market kind of system. The former, the liner trade, the rates for that were set by what is called a conference system - again, an anti-competitive effort to set rates that the United States had some supervisorial or oversight rule about, but basically approved. There were also some rules on what fraction of the market you could carry. There we had a different lineup of players. The developing countries would have loved to have a system that essentially said that on trade between Brazil and the United States, 40% of the stuff should be carried on Brazilian bottoms; 40% on American bottoms; and 20% on the bottoms of other countries.” The U.S. shipping industry would have loved that regime. The U.S. government was not in favor of that regime or was in favor of trying to chip away that as much as it could, but couldn't do very much. So, we had quite a few of those regimes in place.

Q: The U.S. government's stance, was it more sort of a free trade philosophy? Was that the reason for it?

LOY: Yes, it was a free trade philosophy, which was comforting to a few lines, but mostly uncomfortable to most lines, who would have liked a more regulated regime.

Q: Well, this was a time when we were more worried about our merchant marine. It was decreasing all the time. That type of regime of allocating so much to American bottoms would have helped support the merchant marine.

LOY: Well, that's true. Of course, we had a significant protectionist device in the Jones Act, which restricts the U.S. bottoms' traffic between ports in the United States. So, that's a very significant factor. But you're right that splitting up the international market would have

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been a big deal as well. We were trying at that time to keep the thing relatively loose, but recognizing that it wasn't totally loose. We were, I think, somewhat handicapped by the Federal Maritime Commission, which started out, I think, under quite good leadership, a guy named Admiral Harley. It then ended up becoming under the leadership in the early days of the Nixon administration, I guess, of a woman named Ellen Dillage Bentley, who had been a writer, a journalist, on maritime issues in Baltimore. We thought she was very sensitive to the interests of the American flagships. So, the Federal Maritime Commission had certain statutory authority which we had to take into account.

In the course of the period, we also had a series of fire in passenger cruise ships operating out of Miami. That caused an interesting dilemma for us because we were a member of and most nations were a member of the SOLAS (Safety of Life at Sea) Convention. That, as well as I can remember, had a provision that said that any signatory to that convention had to permit into its harbors the ships of another signatory, but everybody who had ships flying the ocean had to certify that the ships conformed to the requirements of the Safety of Life at Sea Convention with respect to materials used in construction and so forth. Here we were, the supplies of most of the [passenger] traffic for [an] important industry, many of whose participants were under different flags. If these people told us that their ships complied with the Safety of Life at Sea Convention, then we had to permit them to operate on our shores, in our harbors.

When these accidents took place, the United States decided that it wanted now, as promptly as possible, to change the Safety of Life at Sea Convention in various key factors. One of the most important was to reduce the amount of wood used in the interior of these ships. We wanted that done with the benefit of the SOLAS members or not. But if we couldn't get their consent, then we would have to impose these restrictions anyway and deny entry into our ports to anybody who didn't comply with these heightened standards that we had developed unilaterally. I can remember a discussion with Dean Rusk, who was the Secretary of State at that time, in which I said, "Secretary, you have to understand that we are headed toward a collision. We want these changes implemented right now

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within a year or so. The Safety of Life at Sea Convention has a five year withdrawal provision. You have to give notice five years before your withdrawal is effective if you want out. (That was an alternative of ours.) Until that time, we either have to comply with the present SOLAS convention, or we have to amend it. I'm not sure that I can amend it in these various ways that we're talking about because I think I'll have a lot of opposition and I won't have support. So, we have to threaten that if we don't get that support, we're going to leave SOLAS and we're going to establish our own rules." Since we were such a big factor in the market, that would be a very major thing, but it would involve breaking or breaching the SOLAS Convention. I thought that the Secretary of State would worry about the rule of law and would worry about the precedential effect of our breaching an agreement and so forth. But in fact, he basically said, "I can't politically handle any more accidents, at least not in a situation where I'm not seen as doing something about it pretty God damned quick. So, if we have to breach the SOLAS Convention, well, maybe we had better go ahead and do it. But we have to amend that."

Armed with that kind of credible threat (or at least, it was my job to make it credible), I then went to London to negotiate an amendment to the SOLAS Convention that would have a very early entry into forced provision, much quicker than anybody wanted because it involved a lot of expensive retrofitting of their ships. After all, we were largely out of the cruise ship business. We were the suppliers of passengers. They were the suppliers of ships. We were making them incur costs to carry our passengers. It was a fairly tough negotiation, but we were able to amend the SOLAS Convention in a rather short period of time and change the standards - as I said, there were many standards to change, but one I particularly remember was the amount of wood used on the interiors.

Q: Did you have the threat, too, of saying that, "We've got five years, but in the meantime, we will also as a government warn people not to go on these ships if things don't happen?"

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LOY: I don't recall whether we used that, but we certainly used unilateral action and the threat thereof. Unilateral action would quite well be a breach of our obligations as a threat. Whether it was the kind of information you were talking about or not, I'm not sure.

Q: Shipping, air, satellite...

LOY: Telecommunications. Those were the three parts of the job. The biggest part of telecommunications was what I described, but we also had interesting and somewhat more technical meetings of the International Postal Union and the International Telegraph and Telephone (I don't know what the name of it is anymore now.). We were dealing with generally what seemed like arcane and technical problems, but in fact, very important ones. One of them that came at the very end of my time was an effort to get agreement on an international standard for television tubes so that you wouldn't have television sets that basically used either a French system called "SEACAM" or a German system called "PAL" or the American system, all of which had different lines and different shapes and were not totally compatible. We tried to do that at a meeting in Oslo and were not successful. The world had grown up. I think PAL and SEACAM basically got together and made a common European system, but basically the American television sets have been different than the European ones because we couldn't agree on joint standards. Again, major commercial importance.

Q: Oh, absolutely. Japan wasn't much of a factor in that period?

LOY: It had one of the European systems. I can't remember which one they had. They were not as big a factor as they would have been if this negotiation would have taken place 10 years later. They had not yet become the consumer electronics giant that they subsequently were.

Q: Then you left there in, what, 1970? This was sort of after particularly the satellite negotiations had finished.

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LOY: An interesting story there is that years afterwards, I was talking to Elliot Richardson. He said to me, "You know, I don't think you know how much trouble you caused me." I said, "I don't know what you're talking about." He said, "Well, you know, when I was the number two guy there, I was obligated to send to the White House every month a list of Schedule C appointments that had not been replaced. That list started out with many and then got smaller and smaller and smaller. There was always this fellow, Loy, and they said, 'Why is he still there?'" I explained about the INTELSTAT negotiation. After a while, there was a guy named McCloskey, who was subsequently the ambassador to Cyprus. He [was] a spokesman for the Department.

So, he said, "For a long time, there was Loy and McCloskey. Then McCloskey left and there was Loy. Every month, I had to go through the same thing, explain why you were still there." A nice thing though is that I never knew that. I mean, I never felt one breath of pressure.

Q: When you left in 1970, whither? What did you do?

LOY: After a relatively short period of time, I went back to work with the person who had been my boss years earlier at the Federal Aviation Agency. I went to work for Pan Am at Jeeb Halaby's request as the senior vice president for International Affairs and then shortly thereafter as the senior vice president for International and Regulatory Affairs.

Q: So, you were, in a way, lobbying. I assume that this would include rather close relations with the U.S. government, wasn't it?

LOY: When I was just International Affairs, all my work was basically with other governments. My job was to get the right authorization and approvals for airline service and hotel operations in other countries. Even when you had a [government to government] bilateral agreement, you still had to work out the [actual] operations yourself.

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I don't remember [when, but sometime afterwards], regulatory [affairs] was added to my job. The Washington office that was responsible for the representation of Pan Am with the federal government reported to me. That was a year or more after I came in.

Q: We're concentrating more on your government work. You came back to government later, didn't you? When was that?

LOY: After Pan Am, [where I worked] from 1970 to the end of 1973 about. A little less than four years. Then I went and took a contract to bring the bankrupt Penn Central Transportation Company basically out of bankruptcy and, more particularly, to run the non-railroad business of that organization and build around those non-railroad businesses a company that could emerge from bankruptcy and be a healthy company. I did that from 1974 through much of 1979.

At that stage, my contract ended. I left Penn Central. I was doing some other things. I didn't have a job or want a job at that time. The then Deputy Secretary of State, Warren Christopher, came to me. He and I had worked in the same law firm when I was in Los Angeles. He said, "Look, there is a bureau in the Department, the Bureau of Refugee Programs, which had suddenly become a huge bureau [that] runs a lot of programs [and receives a separate budget from Congress]. It brings refugees to the United States and funds that. It has help programs for refugees in place in various parts of the world. We're bringing 250,000 or more refugees a year to the United States. It's gotten to be a big management problem, a big policy problem. It has not once, but twice, inadvertently violated the Federal Anti-Deficiency Law (a law that says that you're not allowed to spend more than Congress appropriated. In theory, the secretary of the department that does that is personally liable, so [this circumstance receives high level] attention.). We need to bring that bureau under some sort of control. Would you take that job?" I didn't know anything about immigration or refugees at that time. I took that job near the end of 1979 and kept it until President Reagan [and his administrative arrived] in January of 1981.

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Q: What were the major problems that you saw in this Bureau of Refugee Affairs when you arrived? I mean, was it the budget?

LOY: First, the management of the process by which this very large number of persons designated as “refugees” came to the United States and got started in this country. We had to work very closely with other agencies, but we were basically responsible for determining how many of what kind [of people] came, a process that we had to negotiate [numbers and funds] with the Congress of the United States. Then we had to set up operations overseas to handle them, although we did not do the screening. The screening was done largely by persons [who worked for non-governmental organizations], but we had to set up camps and the like, bring them to the United States, and then, in a sense, hand them off to [other] non-governmental organizations which would deal with their introduction into the American society. [In the big programs, such as Southeast Asia, the Immigration and Naturalization Service [INS] was part of the process of authorizing refugee status]. After a short period (I don't remember how long), our responsibility [for domestic resettlement] ended and it became the responsibility of a bureau in HHS, in the Department of Health, Education, and Welfare at that time (I think it is now Health and Human Services). That was one program. It was big. For example, during the height of that, during those two years that I was there, we probably brought about 170,000 Indochinese into this country, mostly Vietnamese, but also Laotians and Cambodians. This was a legacy of the war. So, that was one problem.

The second problem was, we had a lot of programs where there were refugees that were not to be admitted to the United States, but needed relief services of one sort or another, mostly provided through the UN High Commissioner of Refugees. We were the agency responsible for coordinating with the UNHCR [on protection issues, such as sanitation, medical services, or shelter, and deciding which issues] to make priority and so forth.

One particular problem [of accountability] that was difficult was Cambodia. There was a famine in Cambodia. At least, we believed there was a famine in Cambodia, [presumably]

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fueled by [returning] Cambodians who had fled from [either] the Vietnamese occupation or from Pol Pot. Yet Cambodia was still controlled by a Vietnamese puppet regime. We did not recognize Cambodia. We couldn't get into Cambodia. So, Congress was always very anxious that the money it appropriated for Cambodia would really be used appropriately. They were particularly concerned that it not be siphoned off to benefit the Vietnamese. We had to establish monitoring regimes and sort of guarantee regimes without ever actually being able to get into Cambodia.

Q: Could you use third country nationals?

LOY: We used third country nationals. We used the International Committee for the Red Cross. That's the way we did it, but not all of those were immediately accepted by the Congress as reliable and so forth.

Q: I take it your job was a great deal of sitting with Congress and talking, getting them to understand what you were doing, how you were doing it and all?

LOY: That's correct. Those were two problems. Yes, there was a lot of Congressional interest in this. I should say that just about the time I got there, a new law had been passed. It was the Immigration Reform Act of '79 or '80. It was passed just at the beginning of '80. It made a historic change in the refugee law of the United States. Specifically, before that time, [the U.S. considered that] any person who fled from a country had the status of a refugee and all kinds of things flowed from that. Now, that was no longer true. Basically, refugee status was to be determined under the Geneva Convention governing refugees, which said that persons who are refugees [are those] who have a well founded fear of persecution if they returned by reason of their religion, their politics, their ethnic membership, etc... Yet, mostly, it was hard for the executive branches of the government and it was hard for the Congress itself, even though they passed that law, to remember [the standards] that they passed [in] that law and to act upon it. So, we

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had a lot of situations where people acted as if [Mr.] X ought to be on refugee status [just] because he's coming from a communist country.

For example, we had a quota. I call them quotas because that's really what they were. You negotiated with the Congress at the beginning of the year [how many refugees] you would take in [annually and how many would come from each country]. We had a certain number from Armenia and [that] made no sense whatsoever. They ended up, in my opinion, being mostly older Armenians who had family in California, who wanted to be with their family. The Soviets were glad to get rid of them because they were a burden and they weren't producers. On the other hand, if you analyzed whether they had any kind of reasonable, well-founded fear of persecution, you couldn't find any.

Q: I can think of two groups where there would be tremendous political pressure [to apply the refugee label]. One would be, obviously, Cubans. Florida has 36 electoral votes. Every president knows that. The other one is anybody of Jewish ancestry coming out of Iran or the Soviet Union. I would think these two... These are very political groups.

LOY: You're absolutely right. Those were two of the most sensitive groups. To take the Jewish ones first, the Jewish people could establish their refugee status much more easily than some of the others in the Soviet Union. One of the games we had (and it was a very odd game and not entirely an attractive one, I think) is that the system at that time was mostly that the Soviet Jews that were able to get exit permits would go to Vienna. In Vienna, there was a holding system. At that stage, even though, I think, almost all of them said they were going to Israel because that was the way to get out of the Soviet Union, and that was the way to get the exit permit, most of them didn't want to go to Israel - or many of them didn't want to go to Israel (I think most of them didn't want to go to Israel). There is an Israeli agency, the name of which I do not have at the tip of my tongue, whose job it [was] to try to get as many of those people to go to Israel as possible. They are concerned about the return to the homeland and the diaspora.

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Q: And also because they are surrounded by Arabs and they want to make sure that they...

LOY: Exactly. Our position was, these people should have freedom of choice. We were supported by quite a few American Jewish organizations. So, there was in Vienna a kind of a system that reminded me more of college fraternity rush more than a system. There was kind of competition for the loyalty and destination of these people. I felt my job to be to make sure that the system worked so that the choices made by the individuals were as free of duress as possible. But it was a very odd game.

Q: I keep coming back to this budget thing. You can't exceed your budget and yet you're really depending on the desires of people, individuals whom you have no control over to get the hell out of their country.

LOY: Well, that's true, but in the case of Jews from the Soviet Union, if we had more than we had budgeted for, that was a group that had enough political clout so we could amend the budget. The game that we were engaged in was not a particularly attractive game generally. That is, there was a lot of ethnic politics involved. American foreign policy was made in this area. You try to make sense, but it wasn't always easy to make sense because of these pressures which were translated from a local ethnic group to Congress [on] to the Department.

Q: I was a refugee relief officer in Germany in the late "50s. We had refugees who had never left Italy, refugees that had never left Holland. There were local ethnic politics back in the United States that said, "Well, we'll hire this program, but there are going to be refugees," so we called them refugees.

LOY: Pertaining to Cuba, that was surely the most out of control situation and the most chaotic situation that I faced in that year and a half or so. I speak now of the boatlift of Mariel, which happened on my watch. It was a very bad show. The United States' initial

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signal, which was given really by the President without much consultation, and I think, was based upon advice he got from some people from Florida, was that "You'd better welcome all that can get out." Again, we had a new law that said if you're just from a communist country, that doesn't mean you're a refugee. But that mentality did not reflect the views of the Cuban American community in the United States, particularly in Florida. So, the initial reaction was "You all come." When it became clear that we were getting a) a huge number, and b) in a very rapid flow which we weren't able to process, and c) we were getting some scumbags in the [flow - i.e.,] some [young] single males who were kind of just disorderly or others who were criminals or others who were mentally deranged-

Q: Castro cleaned out the asylums and prisons of his criminals.

LOY: Right. We then got kind of control of it. I kept saying, "We cannot simply invite everyone over here. It's going to be chaotic and bad. We ought to stop the flow and agree to negotiate and talk about who's coming and under what circumstances, at what rate, and so forth." Then there was agreement that we had to stop the flow, but there was total disagreement as to how to do that. I can remember unbelievably, many situations in the White House Situation Room, with various ideas [placed] on top of the table as to how to stop that flow. There was physical danger in many of the ideas. There was still ambivalence as to, you know, we talked about screening on the high seas, and trying to discriminate between legitimate refugees and others. We talked about total barrier and the like. It was a big mess. We had over 125,000 refugees come in a period of two weeks or so. We were totally engulfed in this in terms of our ability to process them. We ended up putting many of them up on military bases. President Clinton at that time was Governor of Arkansas and complained that we were making a huge political problem for him by using Fort Chaffee. I remember that. Later on, he blamed his defeat after his term as governor in part on the Federal Refugee Program and its putting Cubans in Chaffee. It was quite a dramatic time. [Finally], we did enter into negotiations.

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It's interesting... We finally induced the Cubans to come talk about a deal in which we would take certain people under a controlled system and we would take some people they didn't want, including some political prisoners that we wanted and that they had decided they might want to get rid of. They would take back some of the people that they had unleashed on us. We negotiated first in a hotel in New York because we couldn't negotiate at the State Department and we couldn't go [to Cuba]. The second time, we negotiated in my dining room because we couldn't go to the State Department. All of this was now taking place very near the end of the Carter administration. We basically had a deal among the delegations after weeks of negotiations. But then the Cubans basically did not follow through on it during the Carter days. I think they decided if they were going to give anything, they wanted to give to the new administration. Of course, this is speculation on my part. In fact, the new administration showed no interest in associating itself with this arrangement. The deal never happened and these people never went back.

Q: We still have a good number in prison.

LOY: Yes. It was a big shame that that didn't go through.

Q: What was your impression? Here is a real crisis. There had to be a political solution to this. At least, the political masters had to make some decisions. What was your impression of the White House? I mean, was anybody sort of in charge and going through this and running the meetings so that they were focused or not? How did you find that?

LOY: As I said, our first problem with the White House was when we read on the news ticker a statement the President had made, which sent a very bad signal. I don't know exactly how that came about, but it was in my opinion a major mistake because it put us back from where we wanted to be. Then when we got through [to the White House] and we said, "Look, this is going to be a disaster" and we had these meetings in the White House... I think Mr. [name unknown] was reasonably in charge. The military was always present, the Navy particularly. [??] became a big supporter of the proposition that we

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had to stop this flow and came up with some very inventive ideas, some of which were almost bizarre. Many of them were not very practical. The military was very reluctant to get involved at all and certainly reluctant to try to carry out missions at sea that had any chance of going wrong because of rough seas or other physical [problems]. So, they were never enthusiastic about the role that everybody else was assigning to them. I think we in the Department were the principal pressure to take effective measures to stop this flow. After a while, the White House was equally firm on it. I think the reason for the slight delay all the way around was this fear of a domestic political backlash. I think the lesson is that in a democracy [like ours], the really loud people, obviously, sometimes have their way. The fact that it might even be bad politics to follow their advice, which I kept saying it was, [wasn't acknowledged]. I'd say, "There are more non-Cubans than there are Cubans. If they see us lose control of our borders, I don't think that's a good thing." But that took a while to sink in because the noise from Miami was so heavy.

Q: Did you leave after '81 and go back to government?

LOY: No, I then again took off a little time and then I became the president of the German Marshall Fund of the United States, an American foundation.

Q: Great. Well, why don't we stop at this point?

End of interview